

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

CHAD J. SWEENEY, GREGG
THEOBALD, SHAY THEOBALD,
ROBERT MILLER, and RACHEL
MILLER, *all on Behalf of themselves and
All Others Similarly Situated,*

Plaintiff,

v.

RC2 CORPORATION, RACING
CHAMPIONS ERTL CORPORATION,
and LEARNING CURVE BRANDS, INC.
*formerly d/b/a THE ERTL COMPANY,
INC. , formerly d/b/a RC ERTL, INC. ,
formerly d/b/a RC2 BRANDS, INC.,
formerly d/b/a RACING CHAMPIONS
ERTL, INC.,*

Defendants.

Cause No. 1:07-cv-0772-LJM-WTL

ENTRY FOR JULY 30, 2007
MAGISTRATE JUDGE WILLIAM T. LAWRENCE

This case is assigned for an initial pretrial conference before United States Magistrate Judge William T. Lawrence on **Friday, September 14, 2007 at 8:30 a.m.** in Room 277, Birch Bayh Federal Building and U.S. Courthouse, 46 East Ohio Street, Indianapolis, Indiana. The parties are ordered to confer and prepare a proposed Case Management Plan ("CMP"). The CMP shall be in the format set forth in the model CMP located at the court's website (www.insd.uscourts.gov), shall comply with S.D.Ind.L.R. 16.1(c) & (d), and shall address discovery issues as required by Fed. R. Civ. P. 26(f).

The parties shall file the CMP no less than seven days prior to the pretrial

conference. Filing of the plan will not automatically vacate the pretrial conference. The conference will remain set unless specifically vacated by the Court, which is unlikely.

Represented parties shall attend the initial pretrial conference by counsel. Counsel shall appear in person unless they obtain leave to appear at the pretrial conference by telephone. Leave to appear by telephone will be freely granted to counsel who must travel a significant distance to attend the pretrial conference, such as from out of the division in which the case is pending. Otherwise, counsel generally are expected to appear in person. The parties themselves may attend at their option.

Counsel who attend the conference must have their appearance on file, and must be familiar with and prepared to discuss the facts and legal issues in the case, as well as the scope of damages. Counsel should expect to be asked specific questions concerning the case, and should be prepared to set forth all known facts that support any issue, claim, or defense, including any claim for or defense to damages. If it appears at the conference that there is no factual or legal basis to support any issue, claim, or defense, the Court may enter an order dismissing such issue, claim, or defense without prejudice subject to refiling in the event subsequent discovery demonstrates the existence of facts or law supporting the issue, claim, or defense.

Pursuant to S.D.Ind.L.R. 16.1(h), counsel should also be prepared to fully discuss settlement at the initial pretrial conference (as well as any subsequent conference). Plaintiff's counsel shall appear at the pretrial conference prepared to make a settlement demand if no demand has yet been made. Defendant's counsel shall appear at the pretrial conference prepared to make an offer to any outstanding

demand. If no demand has been made, Defendant's counsel shall be prepared to discuss the general parameters of relief responsive to any demand made at the pretrial conference.

If the parties anticipate seeking a protective order to protect the confidentiality of trade secrets or other confidential information, they shall carefully review the Seventh Circuit's decisions in Baxter International v. Abbott Laboratories, 297 F.3d 544 (7th Cir. 2002), Union Oil Company of California v. Leavell, 220 F.3d 562 (7th Cir. 2000), Citizens First National Bank of Princeton v. Cincinnati Insurance Co., 178 F.3d 943 (7th Cir. 1999), and related cases. Failure to conform any proposed protective order to the limitations and requirements of these decisions may result in the Court denying the proposed order.

The Court also encourages counsel to register with the Clerk's office for electronic filing. Counsel need only register one time in the Southern District; it is not necessary to register in every case in which counsel is involved. Counsel will find basic information and a registration form attached if they have not previously registered. Additional information can be found by visiting the Court's website and going to the page entitled *Electronic Case Filing*. For assistance or training in the use of electronic filing, please contact Wendy Carpentier at wendy_carpentier@insd.uscourts.gov or (317) 229-3718.

Electronic filing allows public access to case information. For this reason, parties must refrain from including personal identifying information such as social security numbers, names of minor children, dates of birth and financial account numbers. Any

such information that can not be eliminated from a filing must be redacted. Please refer to L.R. 5.2 for more information.

In order to facilitate the initial pretrial conference, counsel carrying cellular phones and pda's with photo abilities should be allowed to bring their phones to chambers. Please bring this order with you to present at the security checkpoint, if necessary.

If you have questions or need assistance regarding the conference before Judge Lawrence, please call Jennifer Ong, Courtroom Deputy Clerk (317) 229-3615 or Libby Cheema, Judicial Assistant (317) 229-3610.

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